

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE:)	CASE NO. 17-46266-659
)	
KIMBERLY G. SEEMES,)	CHAPTER 13
)	
Debtor.)	
)	
CAVALRY SPV I, LLC,)	Response Due: 4-16-2018
)	Hearing Date: 4-23-2018
Movant,)	Hearing Time: 10:00 a.m.
)	Location: St. Louis, Missouri
vs.)	Courtroom 7 North
)	
KIMBERLY G. SEEMES, Debtor,)	
BRIAN SEEMES, Co-Debtor, and)	
DIANA S. DAUGHERTY, Trustee,)	
)	
Respondents.)	

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY
AND CO-DEBTOR STAY,
AND NOTICE THEREOF**

Please take notice that the Motion for Relief from the Automatic Stay and Co-Debtor Stay filed by Cavalry SPV I, LLC, is set for hearing before the Honorable Kathy A. Surratt-States in the Thomas F. Eagleton United States Courthouse, 7th Floor North Courtroom, 111 S. Tenth Street, St. Louis, Missouri, on April 23, 2018 at 10:00 a.m.

WARNING: THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY.

YOU MUST FILE AND SERVICE YOUR RESPONSE BY APRIL 16, 2018.

YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. THE DATE IS SET OUT ABOVE. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.

COMES NOW Movant, Cavalry SPV I, LLC, pursuant to 11 U.S.C. § 362(d) and 11 U.S.C. §1301, and moves the Honorable Court for relief from automatic stay in effect under 11 U.S.C. § 362(a) and for relief from the co-debtor automatic stay in effect under 11 U.S.C. §1301(a). In support of its Motion, Movant states:

1. On September 13, 2017 ("Petition Date"), Debtor filed a voluntary petition for relief pursuant to Chapter 13, Title 11 of the United States Code.
2. Cavalry SPV I, LLC, is a secured creditor and party in interest herein, as assignee of Capital One.
3. Diana S. Daugherty ("Trustee") is the duly appointed trustee of Debtor's bankruptcy estate.
4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 157(b)(1) and (b)(2)(G), 11 U.S.C. §§ 362 and 1301, and Bankruptcy Rules 4001 and 9014. This is a "core" proceeding under 28 U.S.C. § 157 (b)(2)(G).
5. Venue is proper in this Court pursuant to 28 U.S.C. § 1409.
6. On or about November 6, 2015, Debtor Kimberly G. Seemes and Co-Debtor Brian Seemes obtained financing to purchase a 2014 Yamaha ATV, VIN 5Y4AJ40Y03A105242 ("ATV 1"). Attached as Exhibit A is a copy of the Missouri Department of Revenue Record Lookup Result, indicating that ATV 1 is owned by Debtor and Co-Debtor and showing a lien in favor of Capital One Auto Finance, along with a Notice of Lien Transfer to Movant.

7. On or about April 23, 2016, Debtor Kimberly G. Seemes and Co-Debtor Brian Seemes obtained financing to purchase a 2016 Yamaha ATV, VIN 5Y4AMA1Y3GA102861 (“ATV 2”). Attached as Exhibit B is a copy of the Missouri Department of Revenue Record Lookup Result, indicating that ATV 2 is owned by Debtor and Co-Debtor and showing a lien in favor of Capital One Auto Finance, along with a Notice of Lien Transfer to Movant.

8. Movant is the current owner and holder of the indebtedness and security interests in ATV 1 and ATV 2, as assignee of Capital One.

9. The amount of \$12,086.75 remains due from Debtor and Co-Debtor to Movant, per the proof of claim filed herein, secured by ATV 1 and ATV 2, with a secured claim of \$11,275.00 and unsecured of \$811.75.

10. Movant requests relief from the automatic stay to enforce its security interests in ATV 1 and ATV 2 for cause pursuant to 11 U.S.C. § 362(d)(1) because Debtor’s proposed Second Amended Chapter 13 Plan provides for surrender of the ATVs to Movant.

11. Movant requests relief from the co-debtor automatic stay pursuant to 11 U.S.C. § 1301(c)(3) because Movant’s interest would be irreparably harmed by continuation of the co-debtor stay.


12. Movant further requests waiver of the 14-day stay provision of Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure.

WHEREFORE, Movant prays that this Honorable court enter an order granting relief from the automatic stay in effect under 11 U.S.C. § 362(a), and relief from the co-debtor automatic stay in effect under 11 U.S.C. §1301(a), to permit it to obtain

possession of and dispose of ATV 1 and ATV 2 in a commercially reasonable manner and seek recovery from the Co-Debtor, and providing for such other and further relief as the Court deems just and equitable.

Respectfully submitted,

HANNA & VOLMERT, LLC

By 

Deborah J. Volmert, #42091
530 Fullerton Road, Suite A
P.O. Box 464
Belleville, Illinois 62222-0464
Telephone: (618) 277-7670
Facsimile: (618) 277-7674

Attorneys for Movant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and accurate copies of the foregoing Motion for Relief from the Automatic Stay and Co-Debtor Stay were sent on the 26th day of March, 2018, to the following via electronic mail through the electronic court filing system of this Court:

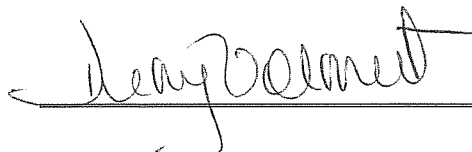
Brent S. Westbrook, Attorney for Debtor

Diana S. Daugherty, Chapter 13 Trustee

And to the following by first class mail, postage pre-paid, on the 26th day of March, 2018:

Kimberly G. Seemes, 2925 Park Valley Drive, St. Peters, MO 63376

Brian Seemes, 2925 Park Valley Drive, St. Peters, MO 63376



Missouri Department of Revenue
PO Box 3355
Jefferson City, MO 65105-3355

Hanna & VolmertLLC
PO Box 464
Belleville, MO 62222

Record Lookup Results

Year Make VIN/HIN
2014 YAMA 5Y4AJ40Y0EA105242

Notice Of Lien

Owner Information

Owner's Name SEEMES KIMBERLY & BRIAN
Street Address 2925 KIMBERLY VALLEY
City SAINT PETERS
State MO
Zip Code 63376

Vehicle Information

Year 2014
Make YAMA
VIN 5Y4AJ40Y0EA105242
Vehicle Type Motor Vehicle
Control Number 353245IU
Previous Title Number
Purchase Date 11/6/2015
Receipt Date 11/10/2015

Lienholder Information

Lien Date 11/06/2015
Lienholder Name CAPITAL ONE AUTO FIN
Street Address PO BOX 660068
City SACRAMENTO
State CA
Zip Code 95866
Subject to Future Advances No
Refinance or No Change Of Ownership No

Notice Of Sale

Owner Information

Owner's Name SEEMES KIMBERLY G
Street Address 2925 PARK VALLEY DR
City ST PETERS
State MO
Zip Code 63376
Purchase Date 11/06/2015

Vehicle Information

Exhibit A

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Year 2014

Make YAMA

VIN 5Y4AJ40Y0EA105242

NOS Control Number 2099024E

No Title record was found.

Print Record

(To be sent to the Department of Motor Vehicles of applicable State)



Capital One Services, LLC
3800 Golf Road
Rolling Meadows, IL 60008

NOTICE OF LIEN TRANSFER – DO NOT DESTROY

9/6/2017
KIMBERLY SEEMES
BRIAN SEEMES
REDACTED PARK VALLEY DR
SAINT PETERS, MO 63376-7142

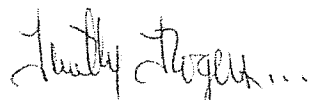
YEAR: 2014
MAKE: UNKN MAKE
MODEL: YFM550PER
VIN: 5Y4AJ40Y0EA105242

Account ending in: *****0209

To whom it may concern:

The above referenced account has been sold and the lien held by Capital One has been reassigned to Cavalry SPV I, LLC as of the date of this letter. This letter shall serve as verification of the lien being released to Cavalry SPV I, LLC and no further interest is now held by Capital One.

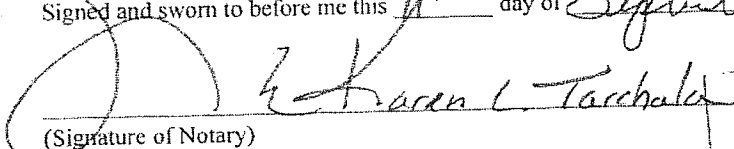
Sincerely,

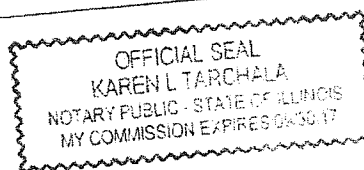

Timothy Rogers
Titles Representative

Letter ID: AS17090100236

State of Illinois
County of Cook

Signed and sworn to before me this 11th day of September, 2017 by Timothy Rogers.


(Signature of Notary)
(Seal)



Missouri Department of Revenue
PO Box 3355
Jefferson City, MO 65105-3355

Hanna & VolmertLLC
PO Box 464
Belleville, MO 62222

Record Lookup Results

Year Make VIN/HIN
2016 YAMA 5Y4AMA1Y3GA102861

Notice Of Lien

Owner Information

Owner's Name SEEMES BRIAN & SEEMES KIMBERLY
Street Address 2925 PARK VALLEY DR
City SAINT PETERS
State MO
Zip Code 63376

Vehicle Information

Year 2016
Make YAMA
VIN 5Y4AMA1Y3GA102861
Vehicle Type Motor Vehicle
Control Number 625721IU
Previous Title Number
Purchase Date 4/23/2016
Receipt Date 5/3/2016

Lienholder Information

Lien Date 04/23/2016
Lienholder Name CAPITAL ONE AUTO FIN
Street Address PO BOX 660068
City SACRAMENTO
State CA
Zip Code 95866
Subject to Future Advances No
Refinance or No Change Of Ownership No

Notice Of Sale

Owner Information

Owner's Name SEEMES BRIAN & SEEMES KIMBERLY
Street Address 2925 PARK VALLEY DR
City ST PETERS
State MO
Zip Code 63376
Purchase Date 04/23/2016

Vehicle Information

Exhibit B

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Year 2016

Make YAMA

VIN 5Y4AMA1Y3GA102861

NOS Control Number 2670800E

No Title record was found.

Print Record

(To be sent to the Department of Motor Vehicles of applicable State)



Capital One Services, LLC
3800 Golf Road
Rolling Meadows, IL 60008

NOTICE OF LIEN TRANSFER – DO NOT DESTROY

9/6/2017
KIMBERLY SEEMES
BRIAN SEEMES
REDACTED PARK VALLEY DR
SAINT PETERS, MO 63376-7142

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MAKE: UNKN MAKE
MODEL: YFM70GPXGR
VIN: 5Y4AMA1Y3GA102861

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Sincerely,

Timothy Rogers
Titles Representative

Letter ID: AS17090100237

State of Illinois
County of Cook

Signed and sworn to before me this 11th day of September, 2017 by Timothy Rogers.

(Signature of Notary)
(Seal)